



September 3, 2019

Via ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., SW, Room TW-A325
Washington, DC 20554

Re: Ex Parte Communication
In the Matter of Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage, WC Docket No. 18-155

Dear Ms. Dortch:

On August 29, 2019, Charles McKee and Keith Buell of Sprint met with Lisa Hone, Gil Strobel, Susan Bahr, Al Lewis, Allison Baker and Erik Raven-Hansen of the Wireline Competition Bureau and Shane Taylor, Patrick DeGraba, and Eric Ralph of the Office of Economic Analysis to discuss this proceeding. Pete Sywenki, Jim Burt, Joe Chiarelli, Nick Jaskolski, Jeff Pfaff, and Janette Luehring from Sprint participated in the meeting by phone.

We discussed the immediate need to address ongoing access stimulation and the efforts Sprint is undertaking to combat these abuses. Sprint is experiencing extreme spikes in traffic that are destined for entities involved in access stimulation. These entities cause traffic to move quickly between carriers, end offices, and tandems in different geographic locations. These abrupt, voluminous routing changes create challenges for carriers that manage their networks based on historic traffic volumes and create risks to networks. Sprint has observed traffic swings where traffic volumes to one carrier in Iowa decrease, while there were corresponding spikes in traffic destined to another ILEC with overlapping ownership in Massachusetts.

Sprint continues to monitor and investigate the traffic that make up these spikes. As part of this investigative effort Sprint made test calls to the telephone numbers involved. Sprint shared that the calls frequently reached long recordings that directed the caller to dial other telephone numbers to access other chat rooms, dead air or music. Sprint also provided the attached excerpts from the recordings reached on those calls.

In its investigations of calling abuses Sprint has found advertisements offering payment for generating high volumes of minutes to chat lines. Although Sprint was unable to identify the source of these advertisements, they could be placed by any party standing to gain financially from increased traffic volumes. This could be the party getting paid, the party paying, or any party benefiting from the inter-carrier compensation resulting from call termination to the conference bridges. Regardless of who

placed the advertisements, they are clearly designed to generate traffic and not for legitimate consumer use.

Sprint has seen rates of \$75/50,000 minutes and \$100/100,000 minutes. These represent \$0.0015 and \$0.001 per minute, which is less than the typical intercarrier compensation rates in these exchanges of \$0.003 per minute suggesting that those receiving the intercarrier compensation (directly or indirectly through a revenue sharing arrangement) from IXC's or wireless carriers could pay "commissions" out of the intercarrier compensation payments. This is a prime example of the market-distorting, anticompetitive, implicit cross-subsidies the Commission sought to eliminate in its 2011 Intercarrier Compensation Reform order.¹

In addition, we provided the attached suggested rule modifications with the intention of better ensuring the rules effectively produce the outcome the Commission is seeking in this proceeding – significantly curtailing access stimulation/arbitrage schemes.

In particular, Sprint emphasized that the Commission should adopt Prong 1 but not Prong 2, modify the definition of access stimulation related to the revenue sharing component, and clarify that actions to avoid compliance with the FCC rules will not be tolerated.

The Commission should only adopt Prong 1 that requires the entity engaging in access stimulation to bear the cost of the tandem transport to the LEC, including the cost of any intermediate access. Prong 1 would encourage the LEC engaged in access pumping to utilize an efficient, least-cost arrangement. Adopting Prong 2, where the access stimulating LEC could impose expensive interconnection arrangements including the transport of the traffic to remote locations, would be counterproductive to the Commission and industry's goal of establishing efficient network interconnection arrangements. As evidenced by the mileage pumping disputes associated with access stimulation, LECs do not hesitate to locate in remote locations when the IXC is required to bear the cost.

Sprint urged the Commission to remove revenue sharing from the definition of access stimulation. Local exchange carriers do not volunteer information to show they are engaged in revenue sharing and as a result establishing the revenue sharing component has required significant discovery. Entities continue to be created that allow implicit revenue sharing with common ownership with the high-volume company, the local exchange entity or the entity providing tandem transport (even when that entity disclaims providing a regulated service while providing exactly the same function). The Commission must clarify that it retains authority to enforce its rules even as to those entities and activities. Through public information Sprint is aware that HD Tandem and Free Conferencing have common ownership. HD Tandem was created by the founder of Free Conferencing, and HD Tandem seeks to have carriers deliver traffic destined for Free Conferencing through their network arrangements

¹ See *Connect America Fund et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-54, GN Docket No. 09-51, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (2011) paras. 9, 14, 648, 738, 747, 749, 775.

in place of the tandem identified in the LERG. HD Tandem also claims that it is not a certificated LEC or entity regulated by the FCC.²

If the Commission retains the revenue sharing component of the rules it should add an alternative definition based on traffic balance and volume thresholds. The FCC should adopt an alternative definition to capture carriers that exceed the traffic ratio and have large volumes of traffic. Based on Sprint's experience and a review of the traffic volumes associated with access stimulation this alternative definition will streamline accurately identifying access stimulators without requiring the extensive process that is required to establish revenue sharing.

Entities have gone to great lengths to conceal or mischaracterize evidence that would establish revenue sharing and with the involvement of entities with overlapping ownership allowing implicit revenue sharing. These evasive actions should not allow entities engaged in, or otherwise involved in, access stimulation to avoid compliance with the Commission's rules and the Commission should clarify that it will exercise its authority to enforce its rules against all access stimulation schemes.

Additionally, Sprint agrees with Inteliquent that the FCC should clarify that an IXC/Wireless Provider's obligation to monitor call completion to a rural LEC means the monitoring of the delivery of such calls to the Intermediate Access Provider (as defined in the 47 C.F.R. § 51.903(1) definitions).

Finally, Sprint repeated its earlier advocacy urging the Commission to immediately follow its action in this proceeding with the expeditious elimination of the remaining vestiges of the outdated access regime by adopting bill and keep for all traffic. Doing so will further the goal of establishing efficient all IP interconnect and voice traffic exchange at the same competitively neutral locations where carriers exchange data traffic.

Sincerely,

/s/ Keith C. Buell

Keith C. Buell
Senior Counsel

² *Inteliquent v. Free Conferencing Corp. et al.*, 16-CV-06976, Doc. 67, Amended Counterclaim para 21 (Oct. 27, 2016) ("HD Tandem now provides nationwide standard and high definition call termination services with an emphasis on directly connecting service provider networks (e.g., FreeConferenceCall, Vonage, Centurylink, etc.) and utilizing technology that has advanced beyond that of the traditional PSTN and the Regulated Path Services. As a result, HD Tandem is not a certificated LEC or entity regulated by the FCC.").

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Attachments

cc: Lisa Hone
Gil Strobel
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Allison Baker
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